

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

CHARLES GRIFFIN,

*Defendant.*

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x

No 1:19-cv-4821

**COMPLAINT**

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to reduce to judgment unpaid federal tax liabilities owed by Charles Griffin. For its complaint, the United States alleges as follows:

**JURISDICTION AND PARTIES**

1. The district court has jurisdiction pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. § 1331, 1340, and 1345.
2. The defendant Charles Griffin resides in Queens County, New York, within the jurisdiction of this Court.

**COUNT ONE**

**(Claim Against Charles Griffin to Reduce Income Tax Liabilities to Judgment)**

3. A delegate of the Secretary of the Treasury made assessments against Charles Griffin for income taxes, penalties, and interest, for the periods, on the dates, and in the amounts described below. These liabilities have balances due as of August 21, 2019, including assessed and accrued late-payment penalties under 26 U.S.C. § 6651 and penalties for failure to make

estimated tax payments under 26 U.S.C. § 6654, costs, and statutory interest, and after applying any abatements, payments, and credits, as follows:

<b>Tax Period Ending</b>	<b>Assessment Date</b>	<b>Amount Assessed</b>	<b>Balance Due 8/21/2019</b>
12/31/2015	10/17/2016	\$102,212	\$57,887.08
12/31/2016	11/20/2017	\$84,918	\$118,406.49
12/31/2017	11/19/2018	\$74,789	\$91,758.46
<b>Total</b>			<b>\$268,052.03</b>

4. Notice of the liabilities described in paragraph 3 was given to, and payment demanded from, Charles Griffin.

5. Despite proper notice and demand, Charles Griffin failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, he remains liable to the United States in the amount of \$268,052.03, plus statutory additions and interest accruing from and after August 21, 2019.

**COUNT TWO**  
**(Claim Against Charles Griffin to Reduce Trust Fund Liabilities to Judgment)**

6. Charles Griffin was an owner and the President or Vice President of Federal Metal & Glass Corp.

7. By virtue of his position as an owner and executive of Federal Metal & Glass Corp., Charles Griffin was a person required to collect, truthfully account for, or pay over the employment taxes of the corporation.

8. Charles Griffin willfully failed to collect, truthfully account for, or pay over the employment taxes of Federal Metal & Glass Corp. for the tax periods as set forth in Paragraph 10 below.

9. On March 29, 2007, the Internal Revenue Service sent a Letter 1153 notifying Charles Griffin of proposed assessments of trust fund recovery penalties against him for the tax periods set forth in Paragraph 10 below.

10. A delegate of the Secretary of the Treasury made trust fund liability assessments under 26 U.S.C. § 6672 against Charles Griffin for the periods, on the dates, and in the amounts described below. The amounts represent the unpaid portion of the income and Federal Insurance Contribution Act (“FICA”) taxes withheld from the wages of employees of Federal Metal & Glass Corp.. These assessments have balances due with interest and costs and after applying any abatements, payments and credits, as of August 21, 2019, as follows:

<b>Tax Period Ending</b>	<b>Assessment Date</b>	<b>Amount Assessed</b>	<b>Balance Due 8/21/2019</b>
03/31/2003	6/5/2007	\$78,227.49	\$92,706.33
06/30/2003	6/5/2007	\$105,250.47	\$174,425.25
12/31/2003	6/5/2007	\$149,679.99	\$248,055.65
06/30/2004	6/5/2007	\$78,878.98	\$130,721.36
09/30/2004	6/5/2007	\$106,968.54	\$177,272.52
12/31/2004	6/5/2007	\$149,897.85	\$248,416.69
03/31/2005	6/5/2007	\$155,271.45	\$257,322.03
06/30/2005	6/5/2007	\$159,058.40	\$263,597.89
09/30/2005	6/5/2007	\$162,845.35	\$269,873.82
12/31/2005	6/5/2007	\$166,632.79	\$276,150.49
03/31/2006	6/5/2007	\$11,798.08	\$19,552.25
<b>Total</b>			<b>\$2,158,094.28</b>

11. Notice of the liabilities described in paragraph 10 was given to, and payment demanded from, Charles Griffin.

12. Despite proper notice and demand, Charles Griffin failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, he remains liable to the United States in the amount of \$2,158,094.28, plus statutory additions and interest accruing from and after August 21, 2019.

13. Charles Griffin filed for a Chapter 11 bankruptcy petition on May 5, 2006 and received a discharge order on February 27, 2009. *In Re Charles L. Griffin*, Case No. 06-41411 (E.D.N.Y. Bankr.)

14. Although a proceeding in court must generally be commenced within ten years after the assessments of a tax, this action has been timely commenced under 26 U.S.C. § 6502 because the statute of limitations was tolled pursuant to 26 U.S.C. § 6503(h) during the pendency of Mr. Griffin's bankruptcy, plus an additional six months.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Charles Griffin for income tax liabilities for the periods ending December 31, 2015, 2016, and 2017, in the amount of \$268,052.03, plus statutory additions and interest accruing from and after August 21, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c);

B. Judgment against the defendant Charles Griffin for trust fund liabilities under 26 U.S.C. § 6672 in regard to Federal Metal & Glass Corp. for the periods ending March 31, 2003, June 30, 2003, December 31, 2003, June 30, 2004, September 30, 2004, December 31, 2004, March 31, 2005, June 30, 2005, September 30, 2005, December 31, 2005, and March 31, 2006, in the amount of \$2,158,094.28, plus statutory additions and interest accruing from and after August 21, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c);

C. The United States of America shall recover its costs, and be awarded such other and further relief as the Court determines is just and proper.

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General  
Tax Division, U.S. Department of Justice

/s/ Pingping Zhang  
PINGPING ZHANG  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 55  
Washington, D.C. 20044  
Tel: 202-305-2165  
Email: [Pingping.Zhang@usdoj.gov](mailto:Pingping.Zhang@usdoj.gov)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> United States of America  <b>(b)</b> County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c)</b> Attorneys (Firm Name, Address, and Telephone Number) Pingping Zhang, Trial Attorney, Tax Division, U.S. Department of Justice P.O. Box 55, Washington, DC 20044. Tel: 202-305-2165		<b>DEFENDANTS</b>  County of Residence of First Listed Defendant <b>Charles Griffin</b> (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  Attorneys (If Known)																									
<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th></th><th>PTF</th><th>DEF</th><th></th><th>PTF</th><th>DEF</th></tr></thead><tbody><tr><td>Citizen of This State</td><td><input type="checkbox"/> 1</td><td><input type="checkbox"/> 1</td><td>Incorporated or Principal Place of Business In This State</td><td><input type="checkbox"/> 4</td><td><input type="checkbox"/> 4</td></tr><tr><td>Citizen of Another State</td><td><input type="checkbox"/> 2</td><td><input type="checkbox"/> 2</td><td>Incorporated and Principal Place of Business In Another State</td><td><input type="checkbox"/> 5</td><td><input type="checkbox"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="checkbox"/> 3</td><td><input type="checkbox"/> 3</td><td>Foreign Nation</td><td><input type="checkbox"/> 6</td><td><input type="checkbox"/> 6</td></tr></tbody></table>			PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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<b>V. ORIGIN</b> (Place an "X" in One Box Only) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District (specify) <input type="checkbox"/> 6 Multidistrict Litigation																											
<b>VI. CAUSE OF ACTION</b>		Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 26 U.S.C. section 7402  Brief description of cause: Suit to reduce tax liabilities to judgment																									
<b>VII. REQUESTED IN COMPLAINT:</b>		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ 2,426,146.31    CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																									
<b>VIII. RELATED CASE(S) IF ANY</b> (See instructions): JUDGE _____ DOCKET NUMBER _____																											
DATE 08/21/2019    SIGNATURE OF ATTORNEY OF RECORD /s/Pingping Zhang																											
<b>FOR OFFICE USE ONLY</b> RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____																											

## CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration ☐

I, Pingping Zhang, counsel for United States of America, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☐  
☐  
☒

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,

the complaint seeks injunctive relief,

the matter is otherwise ineligible for the following reason tax matters

### DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

N/A

### RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

### NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? ☐ Yes ☒ No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? ☐ Yes ☒ No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? ☒ Yes ☐ No
- c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: N/A

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? ☐ Yes ☐ No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

### BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☐

Yes

☒

No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐

Yes

(If yes, please explain

☒

No

I certify the accuracy of all information provided above.

Signature: /s/Pingping Zhang

Signature of Clerk or Deputy Clerk



Civil Action No. 1:19-cv-4821

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: